

Subpart F—Appeals

§ 23.61 Appeals from decision or action by Agency Superintendent, Area Director or Grants Officer.

A grantee or prospective applicant may appeal any decision made or action taken by the Agency Superintendent, Area Director, or grants officer under subpart C or E of this part. Such an appeal shall be made to the Assistant Secretary who shall consider the appeal in accordance with 25 CFR 2.20 (c) through (e). Appeal procedures shall be as set out in part 2 of this chapter.

§ 23.62 Appeals from decision or action by Area Director under subpart D.

A grantee or applicant may appeal any decision made or action taken by the Area Director under subpart D that is alleged to be in violation of the U.S. Constitution, Federal statutes, or the regulations of this part. These appeals shall be filed with the Interior Board of Indian Appeals in accordance with 25 CFR 2.4 (e); 43 CFR 4.310 through 4.318 and 43 CFR 4.330 through 4.340. However, an applicant may not appeal a score assigned to its application or the amount of grant funds awarded.

§ 23.63 Appeals from inaction of official.

A person or persons whose interests are adversely affected, or whose ability to protect such interests is impeded by the failure of an official to act on a request to the official, may make the official's inaction the subject of an appeal under part 2 of this chapter.

Subpart G—Administrative Provisions

§ 23.71 Recordkeeping and information availability.

(a)(1) Any state court entering a final decree or adoptive order for any Indian child shall provide the Secretary or his/her designee within 30 days a copy of said decree or order, together with any information necessary to show:

(i) The Indian child's name, birthdate and tribal affiliation, pursuant to 25 U.S.C. 1951;

(ii) Names and addresses of the biological parents and the adoptive parents; and

(iii) Identity of any agency having relevant information relating to said adoptive placement.

(2) To assure and maintain confidentiality where the biological parent(s) have by affidavit requested that their identity remain confidential, a copy of such affidavit shall be provided to the Secretary or his/her designee. Information provided pursuant to 25 U.S.C. 1951(a) is not subject to the Freedom of Information Act (5 U.S.C. 552), as amended. The Secretary or his/her designee shall ensure that the confidentiality of such information is maintained. The address for transmittal of information required by 25 U.S.C. 1951(a) is: Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 310-SIB, Washington, DC 20240. The envelope containing all such information should be marked "Confidential." This address shall be sent to the highest court of appeal, the Attorney General and the Governor of each state. In some states, a state agency has been designated to be repository for all state court adoption information. Where such a system is operative, that agency may assume reporting responsibilities for the purposes of the Act.

(b) The Division of Social Services, Bureau of Indian Affairs, is authorized to receive all information and to maintain a central file on all state Indian adoptions. This file shall be confidential and only designated persons shall have access to it. Upon the request of an adopted Indian individual over the age of 18, the adoptive or foster parents of an Indian child, or an Indian tribe, the Division of Social Services shall disclose such information as may be necessary for purposes of tribal enrollment or determining any rights or benefits associated with tribal membership, except the names of the biological parents where an affidavit of confidentiality has been filed, to those persons eligible under the Act to request such information. The chief tribal enrollment officer of the BIA is authorized to disclose enrollment information relating to an adopted Indian child where the biological parents have by affidavit

requested anonymity. In such cases, the chief tribal enrollment officer shall certify the child's tribe, and, where the information warrants, that the child's parentage and other circumstances entitle the child to enrollment consideration under the criteria established by the tribe.

Subpart H—Assistance to State Courts

§ 23.81 Assistance in identifying witnesses.

Upon the request of a party in an involuntary Indian child custody proceeding or of a court, the Secretary or his/her designee shall assist in identifying qualified expert witnesses. Such requests for assistance shall be sent to the Area Director designated in § 23.11(c). The BIA is not obligated to pay for the services of such expert witnesses.

§ 23.82 Assistance in identifying language interpreters.

Upon the request of a party in an Indian child custody proceeding or of a court, the Secretary or his/her designee shall assist in identifying language interpreters. Such requests for assistance should be sent to the Area Director designated in § 23.11(c). The BIA is not obligated to pay for the services of such language interpreters.

§ 23.83 Assistance in locating biological parents of Indian child after termination of adoption.

Upon the request of a child placement agency, the court or an Indian tribe, the Secretary or his/her designee shall assist in locating the biological parents or prior Indian custodians of an adopted Indian child whose adoption has been terminated pursuant to 25 U.S.C. 1914. Such requests for assistance should be sent to the Area Director designated in § 23.11(c).

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